

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF CALVARY) APPEAL NO. 07-A-2489
CHAPEL OF THE PALOUSE (Inc.) from the decision)
of the Board of Equalization of Benewah County for) FINAL DECISION
tax year 2007.) AND ORDER

RELIGIOUS EXEMPTION APPEAL

THIS MATTER came on for hearing December 12, 2007 in St. Maries, Idaho before Board Member Linda S. Pike. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. David E. Caudle appeared telephonically at hearing for Appellant. Assessor Teresa A. Jeffrey, County Clerk J. Michele Reynolds and Prosecutor Douglas P. Payne appeared for Respondent Benewah County. This appeal is taken from a decision of the Benewah County Board of Equalization (BOE) denying a claim for exempt status for taxing purposes of property described as Parcel Nos. RP44N05W291060A (10 acres), RP44N05W291070 (10 acres) and RP44N05W291080 (20 acres).

The issue on appeal is whether 40 acres of rural land qualifies for an exemption from property taxes pursuant to Idaho Code § 63-602B, the religious exemption.

The decision of the Benewah County Board of Equalization on the subject parcels is affirmed in part and modified in part.

FINDINGS OF FACT

The subject property is 40 acres of rural land comprising three (3) contiguous parcels. Written application for a religious exemption on the subject property was first made in December 2006. The BOE reviewed the claim for exemption on multiple occasions, always denying exempt status.

The property has timber ground and 19 acres are also enrolled in the Conservation Reserve Program (CRP). Appellant Calvary Chapel of the Palouse (CCP) has made no

application for a timber or agricultural lands exemption since acquiring the property. The record indicates the land was purchased by CCP in November of 2006.

Appellant is associated with an established church in Washington State which operates a successful men's discipleship home at the church facility. On January 1, 2007, CCP was the record owner of the subject property and was incorporated in the State of Washington as a non-profit (religious) organization. Idaho has also recognized Appellant's non-profit status to do business in this state.

The church is developing the subject land for a number of future uses including a men's discipleship home, church camp, and a women and children's shelter/discipleship home. Construction on buildings is expected to begin in the coming summer. As of hearing, the church had performed extensive development work in installing roads and gates and clearing land. The work was paid from church tithes and completed by church individuals. Church members have apparently gathered on the property a large number of times to pray and worship. The gatherings were understood to be in connection with the development work. The property has not been open to the public where it is not yet suitably ready and safe. Appellant contends it has used the 40 acres exclusively for its religious purchases since the time of purchase.

Respondent was concerned with setting a precedent of exempting large tracts of land ("raw land") not yet devoted to a clearly established and exclusive qualifying religious use. The County contended special care should be attended any religious exemption claim involving a large undeveloped (raw) acreage. It was noted all property is taxable unless expressly exempted, and an owner must show clear entitlement to receive the favorable tax treatment.

The County had no issue with the planned future uses of the property, but felt at present there was insufficient development and public use to justify an exemption.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The subject assessments are for the 2007 tax year. By statute all property is taxable unless expressly exempt. Idaho Code §§ 63-203, 63-601. The taxable status of the subject land for the current 2007 tax year was determined based on the property's ownership and use as of January 1, 2007. Idaho Code § 63-205(1). The religious exemption provides that certain church-owned property may be exempted from property taxation. The religious exemption is not "unlimited" in that it does not apply to all church-owned or used property. Idaho Code § 63-602B; *Corp. Of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada County*, 123 Idaho 410, 420-421, 849 P.2d 83, 86 (1993). The Board notes the religious exemption was expanded recently but the new law was not in force on the 2007 assessment date. On January 1, 2007, Section 602B provided in full:

Property exempt from taxation – Religious corporations or societies.

The following property is exempt from taxation: property belonging to any religious corporation or society of this state, used exclusively for and in connection with public worship, and any parsonage belonging to and used in connection with the activities of such corporation or society; and this exemption shall extend to property owned by any religious corporation or society which is used for any combination of religious worship, educational purposes and recreational activities, not designed for profit.

Land could qualify for the religious exemption. There is no restriction above that requires buildings or structures be present. The Board believes the subject land may meet the ownership

element even though CCP is incorporated in Washington. The corporation is recognized in Idaho by the Secretary of State to conduct its non-profit purposes. Appellant might also be characterized as a society and has been doing prison ministry in Idaho for some time. Regardless, our decision here rests solely on the subject land's use as of January 1, 2007. If the use requirement is not met, the property does not qualify for the exemption.

“Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. An alleged grant of exemption will be strictly construed. It must be in terms so specific and certain as to leave no room for doubt. An exemption claim cannot be sustained unless it is shown to be within the spirit as well as the letter of the law.” *Bistline v. Bassett*, 47 Idaho 66, 71, 272 P. 696, 698 (1928).

Appellant had owned the subject land very briefly as of the first of 2007. Much of the evidence presented in support of the exemption request, was applicable to time frames in mid-2007 or was not connected to a certain time frame. There was no evidence of public services being held on or before January 1, 2007. Any development or preparatory work at that time, toward future public uses, was still in an infancy stage. By this Board's hearing in December 2007, far more substantial work had been completed, but the property was still not serving the local community who must bare the brunt of any tax burden shift.

On the whole, the Board finds the 40 acres was not demonstrated to have been used in a qualifying fashion on the key January 1, 2007 assessment date. Had Appellant presented more specific information on religious gatherings that might have occurred prior to January 1, the Board might have considered qualification on the portions of land so used. The involvement of large numbers of individuals are not required. However, we do not see where construction or land development is envisioned as a qualifying religious use, although the extensive involvement

of church individuals tends to color this somewhat favorably. The Board acknowledges and applauds Appellant's religious and charitable work, that undertaken and already accomplished. Unfortunately, the Board does not see where the land use present by January 1, 2007 was demonstrated to qualify for Idaho's religious exemption on a portion – or the total – of the 40 acres.

One final point must be addressed. The record revealed about 19 acres of subject land was enrolled in the Conservation Reserve Program. This CRP ground does qualify for the agricultural exemption pursuant to Idaho Code § 63-604(1)(a)(iv) as cropland in a retirement or rotation program. There was no evidence Appellant had taken steps on any of the 40 acres toward qualifying for the special timberland valuation. The Board will therefor affirm the BOE assessment decision denying exempt status under the religious exemption claim, but we will modify the decision where it involved acreage in the CRP. This CRP land shall be exempted under the agricultural lands exemption and shall be assessed the same as other similarly situated land enjoying exempt status.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the assessment decisions of the Benewah County Board of Equalization concerning the subject parcels be, and the same hereby are, affirmed as to the denial of exempt status under the religious exemption, and modified in part where they involved the taxable status of subjects' CRP ground. The Assessor shall provide the farm land values to calculate the partial exemption on the CRP ground.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from

Appellant.

MAILED APRIL 30, 2008